

REMARKS

Claims 26-34 and 72-150 are pending. Claims 26-31 have been allowed. Claims 32-34 and 72-150 have been rejected.

Allowed Claims 26-31

Applicant gratefully acknowledges the indication by the Examiner that claims 26-31 have been allowed.

Oath/Declaration

The Office Action mailed March 20, 2007 ("Office Action") states that the oath or declaration filed July 5, 2005 is defective. The Examiner has requested that a new oath or declaration be submitted. Applicant has enclosed a declaration. It is respectfully requested that the objection be withdrawn with respect to the declaration.

Specification

The Examiner objected to the disclosure because the following informalities: Appendices D3, D4, E and H are not mentioned in the specification. Applicant has amended the specification to mention all of the appendices. It is respectfully requested that the objection be withdrawn with respect to the specification.

The Examiner objected to the disclosure because of new matter. In particular, the first two pages of the specification are objected to as introducing new matter. However, Applicant respectfully submits that the new matter objection has been erroneously applied since the first two pages of the specification were originally filed with the present application. Since Applicant filed the first two pages of the specification with the originally filed application on January 24, 2002, Applicant cannot understand the reasons for the Examiner alleging that Applicant is adding new matter after the original filing date of January 24, 2002. The new matter objection appears to have

been misapplied. It is respectfully requested that the objection be withdrawn with respect to the specification.

Rejection under 35 U.S.C. § 112, ¶ 1

Claims 88-98 stand rejected under 35 U.S.C. § 112, ¶ 1, for failing to comply with the written description requirement. In particular, the Office Action states that the specification fails to support a machine-readable storage and a plurality of code sections.

Applicant respectfully traverses the rejection. The attention of the Examiner is respectfully directed to the following, for example: page 27, lines 18-21; pages 44-50 and the appendices cited therein. It is respectfully requested that the rejection under 35 U.S.C. § 112, ¶ 1, be withdrawn with respect to claims 88-98.

Rejection under 35 U.S.C. § 112, ¶ 2

Claims 32, 33 and 150 stand rejected under 35 U.S.C. § 112, ¶ 2, for indefiniteness. The Examiner has noted particular informalities related to antecedent basis. Applicant has amended claims 32 and 150 to correct the noted informalities. It is respectfully requested that the rejection under 35 U.S.C. § 112, ¶ 2, be withdrawn with respect to claims 32, 33 and 150.

Rejection under 35 U.S.C. § 103(a)

Zook and Kageyama

Claims 32-34, 72-83, 85-95, 97-109, 111-120, 122-133, 135-148 and 150 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 4,850,009 ("Zook") in view of U.S. Patent No. 4,110,558 ("Kageyama"). Applicant respectfully traverses the rejection for at least the reasons as set forth below.

Applicant respectfully submit that Zook and Kageyama have been improperly combined. It is respectfully submitted that an ordinary person skilled in the art taught by Zook would not have

looked to the art taught by Kageyama to modify the invention taught by Zook.

As FIG. 1 of Kageyama illustrates, Kageyama teaches a *continuously wired synchronization over a transmission line*. On the other hand:

Kageyama is not reasonably related to a radio frequency data as set forth in independent claims 32 and 34.

Kageyama is not reasonably related to a wireless data communication system as set forth in independent claims 75, 112, and 125.

Kageyama is not reasonably related to a wireless communication network as set forth in independent claim 88.

Kageyama is not reasonably related to a radio frequency network as set forth in independent claims 99 and 138.

It is respectfully submitted that an ordinary person skilled in the art of Zook would not have looked to the art taught by Kageyama to modify the invention in Zook.

In addition, the wired synchronization of Kageyama requires a continuous wired connection over a transmission line. Zook only fairly teaches a wireless transmission when a user pushes the SEND button as illustrated in FIG. 10. Thus, the wired synchronization of Kageyama which requires a continuous wired connection over a transmission line could not work with Zook which teaches a short burst of intermittent transmission when a Zook user pushes the SEND button. In summary, the teachings of Kageyama would not properly operate with the teachings of Zook.

For at least the above reasons, it is respectfully submitted that the combination of Zook and Kageyama cannot be maintained.

It is therefore respectfully requested that the rejection under 35 U.S.C. § 103(a) based on Zook in view of Kageyama be withdrawn with respect to claims 32-34, 72-83, 85-95, 97-109, 111-120, 122-133, 135-148 and 150.

In addition, neither Zook nor Kageyama, individually or alone, teaches a radio frequency data communication system with a base transceiver station and mobile transceiver **units** as set forth, for example, in claim 32. The Office Action states that a radio frequency data communication system with a base transceiver station and mobile transceiver units is taught in Zook at FIG. 1 and

col. 7, lines 42-44. Zook at FIG. 1 shows a **single** portable handheld terminal 20. Note in FIG. 5 that only a **single** portable handheld terminal 20 can be inserted into a base station 76 for recharging. The wireless transmission of data is only between a **single** portable handheld terminal 20 and a **single** base station 76. Zook does not teach a plurality of portable handheld terminals 20 sharing a base station 76. Instead, Zook teaches a *one-to-one correspondence* between a **single** portable handheld terminal 20 and a **single** base station 76. Zook at col. 4, lines 14-21 teaches that the base station 76 and the portable handheld unit 20 have the *same address*. Thus, hypothetically, if there were a plurality of handheld terminals 20, the base station 76 would be unable to distinguish between them making wireless communication confusing. Furthermore, one handheld terminal 20 would be unable to distinguish between another handheld terminal 20 and the base station 76 since they all would have the *same address* as required by Zook.

It is true that Zook at col. 7, lines 42-44 states “This prevents interference with the base station 76 by other portable handheld terminals 20 located thought the facility”. However, it is clear from the teachings of Zook and a close inspection of the one-to-one correspondence between the portable handheld terminal 20 and the base station 76 that Zook at col. 7, lines 42-44 relates to multiple base stations 76 throughout the hospital in which each base station 76 only corresponds to its own single portable handheld terminal 20. This explains why there are multiple portable handheld terminals 20 in the hospital, despite the fact that each handheld terminal 20 only corresponds to one and only one base station 76. See, e.g., the one-to-one mounting/recharging configuration and the same address used by the base station 76 and its only corresponding portable handheld terminal 20 of Zook.

Since Kageyama does not make up for the teaching deficiencies of Zook, each and every element as set forth in claim 32 has not been taught by Zook in view of Kageyama.

For at least the above reasons, the obviousness rejection of independent claim 32 and its rejected dependent claim (i.e., claim 33) cannot be maintained. It is respectfully requested that the rejection under 35 U.S.C. § 103(a) be withdrawn with respect to claim 32 and its rejected dependent

claim (i.e., claim 33).

In addition, the same or similar arguments, if applicable, made with respect to independent claim 32 can also be made with respect to independent claims 34 and 75.

Since Kageyama does not make up for the teaching deficiencies of Zook, each and every element as set forth in claims 34 and 75 has not been taught by Zook in view of Kageyama.

For at least the above reasons, the obviousness rejection of independent claims 34 and claim 75 and their rejected dependent claims (i.e., claims 72-74 and 76-87, respectively) cannot be maintained. It is respectfully requested that the rejection under 35 U.S.C. § 103(a) be withdrawn with respect to independent claims 34 and claim 75 and their rejected dependent claims (i.e., claims 72-74 and 76-87, respectively).

With respect to claim 73, the Examiner alleges, without any supporting evidence, that “placing a mobile transceiver unit on a vehicle is known in the art of radio communications system”. Office Action at pages 6 and 7.

With respect to claims 76, 77, 89, 90, 100-102, 113, 114, 126, 127 and 139-141, the Examiner alleges, without any supporting evidence, that “using measured signal strength to evaluate operating conditions of a wireless network is known in the art”. Office Action at page 7.

With respect to claims 80, 83, 108, 117, 130 and 147, the Examiner alleges, without any supporting evidence, that “a polling message is known in the art of wireless communication system”. Office Action at pages 7 and 8.

With respect to claims 111 and 150, the Examiner alleges, without any supporting evidence, that “receiver and transmitter operating on the same radio frequency is known in the art”. Office Action at pages 8 and 9.

Applicant respectfully challenges the conclusory assertions made in the Office Action without any supporting evidence that the elements recited in claims 73, 76, 77, 80, 83, 89, 90, 100-102, 108, 111, 113, 114, 117, 126, 127, 130, 139-141, 147 and 150 are well known or obvious in the art.

Applicant respectfully submits that the Examiner may be considering the elements recited in the above-listed claims in a vacuum. It is respectfully requested that the Examiner consider the elements recited in claims 73, 76, 77, 80, 83, 89, 90, 100-102, 108, 111, 113, 114, 117, 126, 127, 130, 139-141, 147 and 150 in view of the elements as set forth in their respective independent claims.

Applicant respectfully submits that the elements recited in claims 73, 76, 77, 80, 83, 89, 90, 100-102, 108, 111, 113, 114, 117, 126, 127, 130, 139-141, 147 and 150 are not well known or obvious in their respective contexts.

M.P.E.P. § 2144.03(E) states that “[i]t is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based.” Accordingly, in order to maintain the rejection, Applicant respectfully requests that the Examiner produce references in support of the Examiner’s contention or, if the Examiner is relying upon personal knowledge to support the finding of what is known in the art, then the Examiner must provide an affidavit or declaration setting forth specific factual statements and explanations to support the finding. See, e.g., M.P.E.P. § 2144.03 and 37 C.F.R. § 1.104(d)(2).

Zook, Kageyama and Kudo

Claims 84, 96, 110, 121, 134 and 149 stand rejected under 35 U.S.C. § 103(a) as being obvious over Zook in view of Kageyama and further in view of U.S. Patent No. 4,606,044 (“Kudo”). Applicant respectfully traverses the rejection for at least the reasons as set forth below.

For at least the above reasons, an obviousness rejection based, at least in part, on Zook and Kageyama cannot be maintained.

Since the obviousness rejection of claims 84, 96, 110, 121, 134 and 149 are based, at least in part, on the combination of Zook in view of Kageyama, it is respectfully submitted that the obviousness rejection based on Zook in view of Kageyama and further in view of Kudo cannot be maintained.

For at least the above reasons, it is therefore respectfully requested that the rejection under 35 U.S.C. § 1039a) be withdrawn with respect to claims 84, 96, 110, 134 and 149.

In addition, since claim 84 depends from independent claim 75, it is respectfully submitted that the noted teaching deficiencies of Zook and Kageyama with respect to independent claim 75 are not made up by Kudo. For at least the above reasons, it is respectfully requested that the rejection under 35 U.S.C. § 103(a) be withdrawn with respect to claim 84.

In addition, it is respectfully submitted that an obviousness rejection based, at least in part, on Zook and Kudo cannot be maintained.

Applicant respectfully submit that Zook and Kudo have been improperly combined. It is respectfully submitted that an ordinary person skilled in the art taught by Zook would not have looked to the art taught by Kudo to modify the invention taught by Zook.

As FIG. 1 of Kudo illustrates, Kageyama teaches a transmit station 100 transmitting to a receive station 200 over *a transmission line 300*. On the other hand:

Kudo is not reasonably related to a wireless data communication system as set forth in independent claims 75 and 125.

Kudo is not reasonably related to a wireless communication network as set forth in independent claim 88.

Kudo is not reasonably related to a radio frequency network as set forth in independent claims 99 and 138.

It is respectfully submitted that an ordinary person skilled in the art of Zook would not have looked to the art taught by Kudo to modify the invention in Zook.

For at least the above reasons, it is respectfully submitted that the combination of Zook and Kudo cannot be maintained.

It is therefore respectfully requested that the rejection under 35 U.S.C. § 103(a) based on Zook in view of Kageyama and further in view of Kudo be withdrawn with respect to claims 84, 96, 110, 134 and 149.

Conclusion

Applicant does not necessarily agree or disagree with the Examiner's characterization of the documents made of record, either alone or in combination, or the Examiner's characterization of recited claim elements. Furthermore, Applicant respectfully reserves the right to argue the characterization of the documents of record, either alone or in combination, to argue what is allegedly well known, allegedly obvious or allegedly disclosed, or the characterization of the recited claim elements should that need arise in the future.

With respect to the present application, Applicant hereby rescinds any disclaimer of claim scope made in the parent application or any predecessor or related application. The Examiner is advised that any previous disclaimer of claim scope, if any, and the alleged prior art that it was made to allegedly avoid, may need to be revisited. Nor should a disclaimer of claim scope, if any, in the present application be read back into any predecessor or related application.

In view of at least the foregoing, it is respectfully submitted that the pending claims 26-34 and 72-150 are in condition for allowance. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the below-listed telephone number.

U.S. Application No. 10/057,816, filed January 24, 2002
Attorney Docket No. 14419US01
Supplemental Amendment dated September 4, 2007
In Supplement to Amendment filed August 20, 2007

The Commissioner is hereby authorized to charge any additional fees, to charge any fee deficiencies or to credit any overpayments to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Date: September 4, 2007

Respectfully submitted,

/Michael T. Cruz/
Michael T. Cruz
Reg. No. 44,636

McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street, Suite 3400
Chicago, Illinois 60661
Telephone: (312) 775-8000
Facsimile: (312) 775-8100